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MEMORANDUM FOR: General Counsel

SUBJECT : Reimbursement for Luncheon Cost of Chief, Suggestion Awards Staff

REFERENCE : Memo dated 14 March 1961 to Chief, Management Staff  
From Chief, Suggestion Awards Staff and First  
Endorsement to Comptroller from Management Staff  
14 March 1961

1. Referenced memorandum and first endorsement are forwarded herewith and it is requested that your Office provide us with a legal opinion as to whether this type of claim can be legally paid.

25X1A9A 2. It appears to this Office that the luncheon cost of \$2.25 might be reimbursed to Miss [ ] since she was directed by the Chief, Management Staff to attend the luncheon and since the luncheon meeting was concerned with the functions and activities which Miss [ ] is concerned with in the Agency. We base this possibility upon the following quoted provision of the Government Employees Training Act, Public Law 85-507, Section 19:

25X1A9A "(b) Hereafter any appropriation available to any department for expenses of travel shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities."

3. We believe, however, that there are other Government regulations, Comptroller General Decisions, and public laws which should be taken into consideration and might take precedence over the provision of Public Law 85-507 cited in the above paragraph. Those regulations, decisions, and public laws which we believe may have a bearing on the subject are included as follows. There also may be additional issuances which your Office may be aware of which would also have a bearing on the subject.

a. Standardized Government Travel Regulations - 6.8 - No allowance at permanent duty station. "Per diem in lieu of subsistence will not be allowed an employee either at his permanent duty station or at his place of abode from which he commutes daily to his official station."

b. Standardized Government Travel Regulations - 6.1 - Per Diem Allowance. "The per diem in lieu of subsistence expenses includes all charges for meals, ..."



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c. Comptroller General Unpublished Decision - B-140912 - November 24, 1959, Compensation - Additional - Expenses as being Included. "Staff member of Subversive Activities Control Board who claims reimbursement for luncheon expense incurred at interdepartmental conference held in Wash., D.C., his headquarters, is not entitled to reimbursement on basis that Govt. Employees' Training Act making appropriations "available for expenses of attendance at meetings" (5 U.S.C. 2318(b)) constituted authority for payment, since sec. 1765, R.S., provides that no officer whose salary, pay, or emoluments are fixed by law or regulations "shall receive any additional pay, extra allowance, or compensation, in any form whatever \* \* \* unless same is authorized by law," and provision is not viewed as authorizing agencies to incur expense otherwise precluded by R.S., sec. 1765." A copy of this entire decision B-140912 is attached for your ready review.

d. 38 C.G. 134 -- B-136427 - Civilian Personnel - Meetings - Attendance at Headquarters - Travel Expense Appropriations. "A fee for the attendance of a Government officer at an annual luncheon meeting of an association at the officer's headquarters may be paid from the travel expense appropriation made specifically available for expenses of attendance at meetings determined to be concerned with the function or activity for which the appropriation is made, notwithstanding that the officer was not in a travel status....

"As a general rule, the expense of subsistence at headquarters is personal to the employee and meals ordinarily may not be furnished him at Government expense within the limits of his headquarters. However, we have held that the payment of a registration fee incident to attendance at a conference held at an employee's headquarters was proper, even though meals were furnished to persons attending such conference at no additional charge. See decision of August 25, 1947, B-66978....

"The Associate Director says that payment of the \$5 was required in order to attend the annual meeting and you point out that it is difficult, if not impossible, to determine the value of the meal itself.

"In view of such facts and of our holding in the decision of August 25, 1947, we are of the view that the entire \$5 charge is for allowance.

"The voucher returned herewith may be certified for payment, if otherwise proper."

4. In addition to the question of legality, this Office believes that there is a question of policy involved in determining whether this payment should be made. There are many persons in the Agency and many more throughout the entire Government who attend luncheon and dinner meetings of various

associations which deal in subjects which pertain to their particular work in the Government and it is common knowledge that generally the cost of such luncheon or dinner is paid by the individuals attending from their personal funds. A review of Fiscal Division records reveals that this type of claim is not being submitted by others in the Agency and if this one is paid it will establish a precedent which may be difficult to administer.

5. Before a policy determination can be considered, it is necessary that it be determined whether the payment can be made legally. Obviously, if the payment cannot be made legally there is no need for a policy determination. Also, it appears obvious to this Office that the Government Employees Training Act, Public Law 85-507 permits each Agency to place limitations upon payment and reimbursement of training expense by the issuance of appropriate internal regulations. In this connection the following portions are quoted from the Training Act:

a. Section 9 (c). "Each department shall issue such regulations as the department deems necessary to implement the regulations of the Commission issued under section 6 (a) (8) in order to protect the Government with respect to payment and reimbursement of training expenses."

b. Section 10 - Expenses of Training Through Government Facilities and Non-Government Facilities. "The head of each department in accordance with regulations issued by the Commission under authority of section 6 (a) (8) is authorized, from funds appropriated or otherwise available to such department, (1) to pay all or any part of the salary, pay, or compensation (excluding overtime, holiday, and night differential pay) of each employee of such department who is selected and assigned for training by, in, or through Government facilities or non-Government facilities under authority of this Act, for each period of such training of such employee, and (2) to pay, or reimburse such employee for all or any part of the necessary expenses of such training, without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), including among such expenses the necessary costs of (A) travel and per diem in lieu of subsistence in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations, ... (B) transportation of immediate family, household goods and personal effects, packing, crating, temporary storage, drayage, and unpacking ... (C) tuition and matriculation fees, (D) library and laboratory services, (E) purchase or rental of books, materials, and supplies, and (F) other services or facilities directly related to the training of such employee. Such expenses of training shall not be deemed to include membership fees except to the extent that such fees are a necessary cost directly related to the training itself or that payment thereof is a condition precedent to undergoing such training."

6. It will be appreciated if your Office will render an opinion as soon as practicable.

RHF/ss

Distribution:

- Orig. & 1 - Addressee
- 1 - Management Staff
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- ✓ 1 - Signer

Deputy Comptroller

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